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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,354	09/24/2001	Peter Robert Foley	7482M	7888

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EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/937,354

Applicant(s)

FOLEY ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 11-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 11-14 and 16-33 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 16 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, the examiner notes that claim 1, from which claim 16 depends on, already requires that the particles containing the polymeric coating are insoluble in the liquid dishwashing detergent composition.

2. Claim 26 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, the examiner notes that claim 22, from which claim 26 depends on, already requires that the particles containing the polymeric coating are insoluble in the liquid dishwashing detergent composition.

3. Claim 32 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper

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dependent form, or rewrite the claim(s) in independent form. Specifically, the examiner notes that claim 23, from which claim 32 depends on, already requires that the particles containing the polymeric coating are insoluble in the liquid dishwashing detergent composition.

4. Applicant is advised that should claim 30 be found allowable, claim 33 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11 and 22-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 11 and 24 are rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "and leaves no significant residue." The phrase "significant residue" renders the claims vague and indefinite, since one of ordinary skill in the art

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would not be able to ascertain the metes and bounds of the phrase "significant residue". Furthermore, the specification does not contain guidelines describing what numerical values are encompassed by the phrase "significant residue". Is 1% by weight of a polymeric coating residue a "significant residue"? Appropriate correction and/or clarification is required.

8. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "does not cause a significant increase in filming of glassware or dishware." The phrase "significant increase in filming of glassware or dishware" renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the term "significant increase in filming of glassware or dishware". Furthermore, the specification does not contain guidelines describing what numerical values are encompassed by the phrase "significant increase in filming". Is a filming increase of 1% a "significant increase"? Appropriate correction and/or clarification is required.

9. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, for containing the phrase "does not cause a significant increase in filming or residues left on kitchen." The phrase "significant increase in filming or residues left on kitchen" renders the claim vague and indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the term "significant increase in filming or residues left on kitchen". Furthermore, the specification does not contain guidelines describing what

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numerical values are encompassed by the phrase "significant increase in filming or residues". Is a filming or residue increase of 1% a "significant increase"? Appropriate correction and/or clarification is required.

10. Claims 30 and 33 are rejected under 35 U.S.C. 112, second paragraph, for containing the listed color combinations. Specifically, the examiner asserts that the labeling of a color is an arbitrary decision. For example, the color blue may be seen as blue to one person and purple to another person. The examiner suggests that the colors disclosed in claims 30 and 33 should be amended to recite the color's wavelength properties (i.e. the observed color blue occurs at a wavelength of 600nm) to be considered definite.

11. Claim 31 recites the limitation "automatic" in line 1. There is insufficient antecedent basis for this limitation in the claim. Specifically, the term "automatic" is not recited in claim 23. The examiner suggests that the term "automatic" should be amended to recite "hand" to provide proper antecedent basis. Appropriate correction and or clarification is required.

12. Claim 32 recites the limitation "automatic" in line 1. There is insufficient antecedent basis for this limitation in the claim. Specifically, the term "automatic" is not recited in claim 23. The examiner suggests that the term "automatic" should be

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amended to recite "hand" to provide proper antecedent basis. Appropriate correction and or clarification is required.

13. Claims 24-33 are rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a claim with the above addressed 112 problem (i.e. claims 22 and 23).

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1, 11, 12, 16, 17, 19-24, 26, 27 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Maguire, Jr. et al, U.S. Patent No. 4,090,973.

Maguire, Jr. et al, U.S. Patent No. 4,090,973, discloses a method for preparing a liquid dishwashing detergent comprising adding an encapsulated detergent component to a liquid detergent composition (see abstract and col. 2, lines 28-49). It is further taught by Maguire, Jr. et al that the encapsulated material is an insoluble material, such as carboxymethylcellulose, ethyl cellulose, and polyvinyl alcohol (see col. 4, lines 6-62), per the requirements of the instant invention. Specifically, note Example 1B, which discloses a liquid detergent composition comprising 3% by weight of SP-72 (i.e. a proteolytic enzyme encapsulated in polyvinyl alcohol; see col. 10, lines 10-15), and

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adjunct ingredients, such as nonionic surfactants, water, triethanolamine, phosphates, silicates, and polyethylene glycol, per the requirements of the instant invention.

Therefore, instant claims 1, 11, 12, 16, 17, 19-24, 26, 27 and 32 are anticipated by Maguire, Jr. et al, U.S. Patent No. 4,090,973.

16. Claims 1, 11-14, 16-28 and 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Aronson et al, WO 93/22417.

Aronson et al, WO 93/22417, discloses a liquid detergent composition that contains a capsule comprising a detergent sensitive ingredient (see abstract & page 5, line 20-page 6, line 11). It is further taught by Aronson et al that the capsule polymer is composed of polyvinyl alcohol and methyl cellulose (see page 17, line 17-page 18, line 36). Specifically, note the example on page 32, which discloses a liquid detergent composition at a pH between 5-12.5, which comprises surfactants, sodium citrate, sodium borate, 0.1-10% by weight of a polymeric capsule, water, and adjunct ingredients, per the requirements of the instant invention. Furthermore, note the Examples in Table 1, which disclose liquid detergent compositions that contain polyvinyl alcohol and methyl cellulose as the polymeric capsule. Therefore, claims 1, 11-14, 16-28 and 31-32 are anticipated by Aronson et al, WO 93/22417.

17. Claims 1, 11-14, 16, 17, 19-29, and 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsaur et al, EP 653,485.



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Tsaur et al, EP 653,485, discloses a detergent composition comprising an active, liquid composition, and an oil dispersion encapsulated in a polymer shell, such as polyvinyl alcohol and methyl cellulose (see abstract, page 3, lines 9-24, and page 4, line 51-page 5, line 16). It is further taught by Tsaur et al that the active, liquid composition contains ingredients such as water, surfactants, electrolytes, enzymes, bleaches and polyacrylates (see page 8, lines 1-45). Specifically, note Examples 1-9, which disclose liquid detergent compositions containing encapsulated oil dispersions, and adjunct ingredients, per the requirements of the instant invention. Therefore, claims 1, 11-14, 16, 17, 19-29, and 31-32 are anticipated by Tsaur et al, EP 653,485.

18. Claims 1, 11 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahmed et al, U.S. Patent No. 5,108,641.

Ahmed et al, U.S. Patent No. 5,108,641, discloses an aqueous liquid dishwashing detergent comprising water, phosphate, sodium carbonate, sodium hydroxide, surfactants, sodium silicate, 0.04-1.04 of an encapsulated bromide compound, sodium hypochlorite, a thickener, and colors/perfumes, per the requirements of the instant invention (see col. 16, lines 13-30), per the requirements of the instant invention. Therefore, instant claims 1, 11 and 16-18 are anticipated by Ahmed et al, U.S. Patent No. 5,108,641.

***Allowable Subject Matter***

19. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

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base claim and any intervening claims. Specifically, the prior art of record does not teach or suggest in general a liquid dishwashing detergent which contains a solid particle encapsulated with a polymeric coating comprising alginate, as required by applicant in instant claim 15.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Bpm

Brian Mruk  
April 9, 2003

*Brian P. Mruk*  
Brian P. Mruk  
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